circulated among judges and practitioners. The purchase by the several State Bar Associations of a dozen or so copies, each, of Professor Costigan's volume and of Mr. Cohen's THE LAW—BUSINESS OR PROFESSION? and the circulation of these by some easily devised plan among the members of each local bar, to be at the disposal of each local bar for a limited time, and then passed on to another, would go very far toward educating the bar of the country along proper ethical lines.

W. M. LILE.

STANDARDS OF AMERICAN LEGISLATION, by Ernst Freund. (Chicago: University of Chicago Press, 1917, pp. xx, 327.)

No people can afford to have its policies fixed for all time, and when constitutions limit legislative action either laws which are desired cannot be put into effect, or, if the emergency is sufficiently great, the constitutional provisions are changed or disregarded. Thus, in the well-known *Ives* case the New York Court of Appeals annulled a Workmen's Compensation Act, but recommended that an amendment to the constitution be adopted sanctioning such legislation. This showed that in the opinion of the New York court, due process and obligation of contract provisions did not comprehend immutable principles, but simply a policy of distributive justice which was liable to change through progress in economic and social thought. Now, the chief difficulty of such a judicial veto is that the constitutional policies which are enforced are wholly indefinite. Obligation of contracts is not an absolute right; the courts are continually permitting qualifications, but in doing so they simply interpose their standards of reasonableness against legislative discretion. At the present time, such a veto may be necessary for governments where, owing in part to the separation of powers, legislatures feel as little responsibility as they do in the United States (the condition may be said to be both the justification and effect of judicial control), but the exercise of such a political function by the courts is not very satisfactory. Professor Freund has attempted in this book "to suggest the possibility of supplementing the established doctrine of constitutional law which enforces legislative forms through *ex post facto* review and negation by a system of positive principles that should guide and control the making of statutes, and give a more definite meaning and content to the concept of due process of law."

The author first examines the historic changes in the relation of law to individual rights and sketches the development of social legislation. He shows the inadequacies of the common law and how these give rise to the tasks and hazards of legislation. But the mere negative of bills of rights has only succeeded in imposing a vague standard of reasonableness, and the judicial decisions show no attempt to furnish any principles of legislation. All this is preliminary to the discussion of the author's real thesis—principle as applied to legislation. This, he says, rises above both constitutional requirement or policy "as being an ideal attribute demanded by the claim of statute law to be respected as a rational ordering of human affairs; it may be a proposition of logic, of justice, or of compelling expediency; in any event it is some-

thing that in the long run will tend to enforce itself by reason of its inherent fitness, or, if ignored, will produce irritation, disturbance, and failure of policy." Three illustrations given by Professor Freund will make his meaning clearer.

He has no difficulty in showing, for example, that the uncertainty of just what offenses are comprehended by the criminal provisions of the Sherman Anti-Trust Law has made it practically unenforcible, and that the measure would have been an absolute failure but for the afterthought of inserting provisions which enabled the government to proceed in equity. Common sense would be sufficient to show that such legislation was contrary to sound principle. Again, a number of states passed laws which were designed to suppress the manufacture and sale of oleomargarine, even when admittedly a substitute for butter. Such legislation banning a valuable article of food has disappeared. Thirdly, legislative attempts to prohibit sales of stock on margin have been abandoned because of too great interference with legitimate transactions. All of these laws were upheld by the courts, but all were contrary to sound principles.

In order to have legislation which is a rational ordering of human affairs, the measures must be correlated and standardized. These are the two fundamental principles upon which Professor Freund insists. By correlation he means the harmonizing of various provisions or the supplementing of a statute by others necessary for its satisfactory and just operation. The entire aggregate of rights and obligations involved in legislation must be considered, and the failure to do this accounts for much of the alleged unreasonableness. Thus, when a legislature imposes a minimum wage, it should make regulations, as England has done, for the efficiency and regularity of the work; when public utilities are required to serve the public, they should be given the right to command the services of their employees. "Altogether the principle of correlation means the interdependence of right and obligation."

The other principle which Professor Freund stresses is that of standardization. Correlation means more carefully measured justice; standardization means "comformity to undisputed scientific data and conclusions, the working out of juristic principles, the observance of an intelligent method in making determinations, and the avoidance of excessive or purposeless instability of policy." Matters of detail should be separated from those of policy, and the administrative provisions should be codified and general. Having once done the work, the legislature could then rely on them and not insert in every measure the details of its enforcement.

How, Professor Freund inquires finally, can these principles be ascertained and made fully available? The courts will not be able to do very much, and the chief hope is in the improvement of legislative practice. It is easy to demonstrate the superiority of foreign legislation to our own, and this is due largely to executive initiation—a right which is being increasingly exercised and sanctioned in the United States. The preparation of bills by special commissions, the delegation of power to administrative commissions, the organization of draft-

ing bureaus, and the codification of standing clauses—all offer hope for establishing constructive principles of legislation.

Professor Freund's book was not intended to exhaust, but simply to stimulate interest in, the subject and its possibilities. For this purpose it is admirably adapted. It is a valuable contribution to the literature which urges an improvement of statute law.

WORKMEN'S COMPENSATION, by Arthur B. Honnold. (Kansas City: Vernon Law Book Co., 1917, pp. xxi, 1905.)

The rapid and rather recent increase in the number of Workmen's Compensation Acts in this country indicates a distinct coöperation between the forces of capital and labor, and definitely represents a more sane and common-sense method of adjusting, between the employer and employee, the losses brought about by accidents to employees engaged in industrial pursuits.

The compensation idea first took form in 1883 in the German sick insurance statute and later spread to all the European countries. The so-called English compensation plan based on risks arising out of the business and impairment of earning capacity soon developed from this tendency. At the present time either the German insurance plan or the English compensation idea, or both, form the basis of the modern laws which seek to make compensation for the numerous accidents and injuries to workmen a part of the cost of production. It was not until 1908 that this European social experience influenced legislation of the states in this country in the shaping of a new and different scheme and basis of indemnity for industrial accidents. Since that date compensation laws have been adopted by the federal government, thirty-two states, Alaska, Hawaii and the Canal Zone. The widespread adoption of these laws in so short an interval seems to indicate that they will soon supercede entirely the unfair and inadequate common-law remedy which still exists in some of our states.

Mr. Honnold, in the early chapters of his work, gives a comprehensive statement of the history and theory of compensation laws, treating the acts in general. In order to grasp the purpose and the ultimate benefits which are derived from them, he remarks that "the proper administration of Workmen's Compensation Acts necessitates an appreciation of the legislative purpose to abolish the common-law system relating to injuries to employees as inadequate to meet modern conditions and conceptions of moral obligations, and substitute therefor a system based on a high conception of man's obligation to his fellow man, a system recognizing every personal loss to an employee, which is not self-inflicted, as an element of the cost of production to be charged to the industry rather than to the individual employer, and liquidated in the steps ending with consumption, so that the burden is finally borne by the community in general." This theory underlies the whole compensation plan.

Then follow, in logical sequence, chapters dealing with every aspect and particular of compensation laws. The question of the basis and manner of compensation is treated with exactness and much detail,